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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,643

11/24/2003

Hiroaki Yasuda

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EXAMINER

HANNAHER, CONSTANTINE

ART UNIT

PAPER NUMBER

2884

MAIL DATE

DELIVERY MODE

11/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,643

Applicant(s)

YASUDA, HIROAKI

Examiner

Constantine Hannaher

Art Unit

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell *et al.* (US 20030042445A1) in view of one of Struye *et al.* (US006583434B2) and Van de Bergh (US005905014A).

Mitchell *et al.* is available to the examiner under 35 U.S.C. 102(e) even subsequent to the perfection of the claim to foreign priority by the submission of the translation of the priority document on December 7, 2006.

With respect to independent claim 9, Mitchell *et al.* discloses a device (FIG. 6A) for acquiring latent image information in a phosphor layer (paragraph [0047]) comprising a light source 42 (paragraph [0061]), a detector 38 (paragraph [0083]), and a filter device 44 (paragraph [0084]). The light source, detector, and filter device of Mitchell *et al.* are all for the recited purposes, see paragraph [0062], last two sentences, regarding the transparency and lack of transparency of filter device 44 in the device of FIG. 6A. The filter device 44 of Mitchell *et al.* is fairly characterized as an absorption filter (paragraph [0062]). Thus, the sole difference between the scope and content of Mitchell *et al.* and the claim is that Mitchell *et al.* does not identify the construction of “a filter 44” (paragraph [0084]) as comprising at least two elements. The interchangeability of multiple filters for a single filter is recognized in the art (see column 9, lines 38-65 of Struye *et al.* and column 16, lines 19-35 of Van de Bergh). Because an express suggestion to substitute one known equivalent for another is not

required (MPEP § 2144.06) it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the filter device 44 of Mitchell *et al.* such that it comprised at least two absorption filter elements joined to one another.

With respect to dependent claims 10-15 and 18, in view of the “glass filters with multilayer coatings” and “colored glass filters which may also be coated” of Mitchell *et al.* and the extensive knowledge of “filter types and spectral transmittance” available as described by Struye *et al.* and Van de Bergh, the specific transparency and non-transparency of individual filter elements in the filter device 44 of Mitchell *et al.* is a choice within the ordinary skill in the art. Multilayer coatings constitute a reflection layer.

With respect to dependent claims 16 and 19, the transmission of the filter device 44 of Mitchell *et al.* at wavelengths in the first wavelength range is at a degree within the claimed range (paragraph [0062]).

With respect to dependent claims 17 and 20, the transmission of the filter device 44 of Mitchell *et al.* at wavelengths in the second and third wavelength ranges is at a degree within the claimed range (paragraph [0062]).

Interference

3. The request for interference filed September 6, 2007 is acknowledged. However, examination of this application has not been completed as required by 37 CFR 41.102(a). Consideration of a potential interference is premature. See MPEP § 2303.

Response to Submission(s)

4. The amendment filed September 6, 2007 has been entered.
5. Applicant's arguments filed September 6, 2007 have been fully considered but they are not persuasive.

Appellant argues that the Examiner has not indicated why such multiple elements should be joined. *KSR* forecloses Appellant's argument that a specific teaching is required for a finding of obviousness. *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. at 1741, 82 USPQ2d at 1396 (2007). Applicant's arguments do not overcome the conclusion that when the art teaches multiple filters, their joining would have been obvious because a person of ordinary skill has good reason to pursue the known options within his or her technical grasp.

For at least the reasons explained above, Applicant is not entitled to a favorable determination of patentability in view of the arguments submitted September 6, 2007.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (571) 272-2437. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Constantine Hannaher/
Primary Examiner
Art Unit 2884**

ch

agreed
Robert J. Hannaher
11/8/07